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**OFFICE OF THE  
SECRETARY OF STATE**

**Commercial Recordings  
Standard Answers to  
State Business License Exemption Questions**

**Q: What is the Declaration of Eligibility for State Business License Form?**

**A:** As of August 6, 2011, the Declaration of Eligibility for State Business License Form is required of all Corporations, LLCs and other Title 7 entities at the time of filing their initial/annual list if they are claiming any exemption from the State Business License.

**Q: Why is this now required when it previously was not?**

**A:** Internal office investigations supported by a Nevada State Audit Report revealed that a significant number of claims for exemption were improper or fraudulent. It was found that the simple checkbox claim on the annual list of officers was insufficient in determining a valid claim for exemption and it was recommended that the Secretary of State request additional information regarding exemptions in order to substantiate an entity's claim of exemption. Due to the high volume and continuous increase in the number of exemptions claimed, the Secretary of State developed this form containing declarations from those entities claiming any exemption from the State Business License.

**Q: What is the Secretary of State's authority to require the information requested in the declaration form?**

**A:** NRS 76.100(2)(d) allows the Secretary of State to require "any additional information he deems necessary."

**Q: What happens if I do not submit the declaration form with my annual list of officers?**

**A:** An annual list of officers, claiming any exemption, must be accompanied by the declaration form. Any annual list claiming an exemption that does not include the declaration form will be rejected and the customer will be informed of the rejection and the reason for such. The entity will be subject to additional penalties if the annual list and declaration form are not returned, in good order by the due date of the annual list.

**Q: Do I need to submit the declaration form if I am not exempt and intend to maintain a State Business License?**

**A:** No. The declaration form is only required if the entity is claiming an exemption.

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**Q: What if I was unaware that I improperly claimed the exemption on a past annual list filing?**

**A:** Pursuant to NRS 76.110, Corporations, Limited Liability Companies and other Title 7 entities may correct this oversight by filing an amended list of officers and paying the associated filing fee, plus the business license fees and late penalties for each year they improperly claimed the exemption.

Similarly, a sole proprietorship or partnership or other Non-Title 7 business may make this correction by filing an amended State Business License Application and paying the associated filing fee, plus the business license fees and late penalties for each year they improperly claimed the exemption.

**Q: Does the declaration apply to entities that have already received a renewal notice from the Secretary of State (namely for August September and October of 2011?)**

**A:** Yes. Effective August 6, 2011, all entities claiming an exemption from the state business license must include the declaration form. Supplemental notices have been sent to all entities with renewal notices for August, September and October, 2011 informing them of the declaration requirement.

**Q: Can I file my annual list, claim for business license exemption and the declaration form online?**

**A:** No. Online services for entities claiming an exemption are no longer available. All annual lists with a claim for exemption, including the declaration, which must be notarized, must be filed in the office and received by the annual list due date to avoid late penalties. Forms may be found on our website at [www.nvsos.gov](http://www.nvsos.gov).

**Q: Why was this implemented so quickly and without notice?**

**A:** After receiving the results of our internal investigations and the State Audit Report, the Secretary of State felt it necessary to immediately address the issues surrounding the improper and/or fraudulent claiming of exemptions from the State Business License, since the number of entities claiming the exemption was significant. Online filing for entities claiming an exemption was eliminated to prevent continued abuse or improper filing of exemptions and to ensure entities that meet the exemption eligibility can be verified through the declaration of eligibility form. As noted above, notices have been sent to all entities with renewal notices for August, September and October, 2011.

**Q: I received a letter about claiming an exemption last year, what is this all about?**

**A:** Due to the high volume of claims for exemption, the Secretary of State is asking all who claimed an exemption last year to provide information substantiating the claim. It is necessary to respond to this letter even if you feel you were entitled to the exemption and wish to maintain the exemption. Failure to respond to the letter may ultimately result in action being taken against your business entity including suspension or revocation of its charter and its right to conduct business in Nevada or as a Nevada entity. The response to the request must include answers to all the questions and must be signed by an officer of the business entity.

If, upon review, you believe that your entity claimed an exemption to which it was not entitled, you may submit an annual list of officer form and fee, with no exemption claimed, along with any business license fees and associated late penalties. If you do send in the forms and fees required to get your state business license, response to the questions are not required. However, you must provide written response to the office indicating that you have amended the entity's record so as not to be documented as non-compliant.

## **001 - Governmental Entity Exemption –**

### **Q: What constitutes a governmental entity for the purposes of the Nevada State Business License?**

**A:** A “governmental entity” is an incorporated or unincorporated agency or instrumentality of the United States government or any state government; a corporation wholly owned by the United States government; or county, city, district, or other political subdivision of a state. Only entities that fall under this definition may claim the 001 exemption.

This does not include contractors that are associated with a governmental entity due to the fact that they have contracted with a federal, state, local governmental agency.

An entity claiming this exemption must include with its annual list the signed and notarized Declaration of Eligibility for State Business License Exemption declaring under penalty of perjury that it is eligible for the exemption.

A business entity that is not an agency or instrumentality of a government entity that has claimed the 001 – Governmental Entity exemption is liable to the state of Nevada for the business license fee of \$200 and the associated late fee of \$100 for each year they improperly claimed the exemption.

For Corporations, Limited Liability Companies and other Title 7 entities, this correction must be made by filing an amended list of officers and paying the associated filing fee, plus the business license fees and late penalties for each year they improperly claimed the exemption.

A sole proprietorship or partnership or other Non-Title 7 business may make this correction by filing an amended State Business License Application and paying the associated filing fee, plus the business license fees and late penalties for each year they improperly claimed the exemption.

## **002 – 501(c) Nonprofit Entity Exemption –**

### **Q: What constitutes a nonprofit entity for the purposes of the Nevada State Business License exemption?**

**A:** Nevada nonprofit entities formed pursuant to NRS Chapter 82 and corporations sole formed pursuant to NRS Chapter 84 are specifically exempted from the requirements of the State Business License and are not required to maintain a state business license nor are they required to claim an exemption.

Nonprofit entities formed pursuant to NRS Chapter 81 and unincorporated nonprofit associations that have qualified and currently maintain Internal Revenue Code 501(c) status may claim the 002 – 501(c) Nonprofit Entity exemption by including with its annual list the signed and notarized Declaration of Eligibility for State Business License Exemption declaring under penalty of perjury that they are eligible for the exemption.

Business entities that have improperly claimed the 002 exemption are liable to the state of Nevada for the business license fee \$200 and the associated late fee of \$100 for each year they had improperly claimed the exemption.

For Corporations, Limited Liability Companies and other Title 7 entities, this correction must be made by filing an amended list of officers and paying the associated filing fee, plus the business license fees and late penalties for each year they improperly claimed the exemption.

**Q: My business does not make a profit, am I not allowed the 002 exemption?**

**A:** Just because your business “does not make a profit,” does not mean it is a “nonprofit” entity that qualifies for the 002 exemption. Corporations, Limited Liability Companies, Limited Partnerships, Limited Liability Partnerships, Limited Liability Partnerships, Limited Liability Limited Partnerships and Business Trusts are considered “for-profit” entities regardless of whether or not they actually make a profit. A nonprofit entity is an entity formed or qualified pursuant to NRS Chapter 82, or pursuant to NRS Chapter 81 or an unincorporated nonprofit association with a current 501(C) status.

### **003 – Home-Based Business Exemption**

**Q: What constitutes a home-based business for the purposes of the Nevada State Business License?**

**A:** A “person who operates a business from his or her home” is a person who operates a business from his or her personal residence and whose net earnings from the business claiming the exemption were less than  $66 \frac{2}{3}$  percent of the average Nevada annual wage for the most recent calendar year ending before the date on which the fee would otherwise become due. For 2011, the average Nevada Annual Wage is \$26,421.

**Q: I have a separate shop, but maintain a home office related to my business that I do work out of. Do I qualify for the 003 Exemption?**

**A:** No. The 003 Home-Based Business Exemption is meant to apply to a person or that person and his or her spouse that conducts business solely from his or her home. If business is conducted from another location, such as an office or a storefront, the exemption does not apply.

**Q: Do I qualify for the 003 exemption if my business is open to the general public?**

**A:** No. The home-based business exemption is not available to the business owner that maintains a store or other operation that is open to the general public during “normal working hours.” A person conducting business in his or her home may invite customers into his or her home to do business and still claim the 003 exemption..

**Q: Does my Nevada entity qualify for the 003 home-based business exemption if my home is outside the state of Nevada?**

**A:** No. NRS 76.100(2) states, “If the applicant is an entity organized pursuant to this title and on file with the secretary of state and the applicant has no location in this state of its place of business, the address of its registered agent shall be deemed to be the location in this state of its place of business.” Therefore, the 003 home-based business exemption from the State Business license is not available to a business outside the

State of Nevada even if the entity may be home-based in the state where it is located because it is considered to be doing business in this state at the registered agent address and this is not his or her home.

**Q: Why do I need to disclose my net earnings?**

**A:** To claim the home based business exemption, a person must have net earnings of less than  $66 \frac{2}{3}$  percent of the average Nevada annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due. For 2011, the average annual wage is \$26,421. The net earnings disclosed must be the net earnings related to the home based business as reported to the IRS on the federal tax filing for the previous year.

**004 - 4 or Fewer Dwelling Units**

**Q: I have a corporation, LLC or other Title 7 entity that owns 4 or fewer rental dwellings? Do I qualify for the 004 exemption?**

**A:** No. The 004 exemption is available only to a natural person owning 4 or fewer dwelling units.

**Q: What if I am an LLC or s-corp that is disregarded for tax purposes and treated like a sole proprietorship, could I then qualify for the 004 exemption?**

**A:** No. The 004 exemption is available only to a natural person. The fact that the LLC or corporation may be treated differently for federal tax purposes does not qualify the LLC or corporation for the exemption.

**005 – Motion Picture Company**

**Q: I am an actor or entertainer who performs in motion pictures. Do I qualify for the 005 – Motion Picture Company Exemption?**

**A:** No. Unless the primary purpose of your business is to create or produce motion pictures and your business is registered with the Nevada Division of Motion Pictures pursuant to NRS 231.127 through 231.130, you do not qualify. “Motion pictures” includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.

**Q: Am I eligible for the 005 exemption if I am a motion picture studio located in Nevada?**

**A:** Yes. If the primary purpose of your entity is to create or produce “motion pictures” in Nevada, you are entitled to the exemption. “Motion pictures” includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.

**006 – NRS 680B.020 Insurance Company**

**Q: Is any insurance company eligible for the 006 – NRS Insurance Company Exemption?**

**A:** No. Only those insurance companies possessing a current license or certificate of authority issued by the Nevada State Insurance Commissioner would be eligible for this exemption.

**Q: I offer other services such as investment services along with my insurance services. Can I still qualify for the 003 exemption?**

**A:** No. The 006 exemption is available only for those insurance services regulated and covered by the license or certificate of authority issued by the commissioner of insurance. Those offering non-covered services would be required to maintain a State Business License.

**Q: My insurance license or certificate of authority issued by the Nevada Division of Insurance has expired or has been revoked. Am I still eligible for the 006 exemption?**

**A:** No. Only holders of a current license or certificate of authority issued by the Nevada Division of Insurance, who do not have activities not incidental to the licenses or certificate are eligible for the 006 exemption.